

EMILY SONNEK

IBLA 75-446

Decided August 11, 1975

Appeal from a decision of the Colorado State Office, Bureau of Land Management, rejecting oil and gas lease offer C 22413 filed in the January 1975 simultaneous drawing.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Sole Party in Interest

Where an oil and gas lease offer filed on a drawing entry card in a simultaneous filing procedure contains the name of an additional party in interest, and the required statement of interest, copy or explanation of the agreement between the parties, and evidence of the qualifications of the additional party are not filed within 15 days after the filing of the lease offer, the offer must be rejected.

APPEARANCES: Emily Sonnek, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

On January 27, 1975, Emily Sonnek filed an oil and gas lease offer on a drawing entry card for parcel 189 in the January 1975 list of lands available for oil and gas leasing in the simultaneous filing procedure posted by the Colorado State Office. On her card, appellant indicated that Emil Sonnek had an interest in her offer. Her offer was drawn first. By decision dated March 7, 1975, the Colorado State Office, Bureau of Land Management, rejected appellant's offer for failure to submit the required statements of interest, copy or explanation of the agreement between the parties and the evidence of the qualifications of the additional party within 15 days after the filing of the lease offer, citing 43 CFR 3102.7. Appellant timely filed a notice of appeal.

[1] In her appeal, appellant has provided the evidence required by the regulation, and suggests that equitable considerations should result in a waiver of the regulation. Our past decisions make clear, however, that failure to comply with the requirements of the regulation makes rejection of the offer mandatory. Mary West, 17 IBLA 84 (1974); Ross I. Gallen, 15 IBLA 86 (1974); Melvyn Kegler, 13 IBLA 265 (1973); James Monteleone, 9 IBLA 53 (1973).

Appellant suggests that the language of the regulation is confusing and contradictory. On the contrary, the regulation quite clearly states:

* * * If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them if oral, and a copy of such agreement if written. All interested parties must furnish evidence of their qualifications to hold such lease interest. Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the lease offer. Failure to file the statement and written agreement within the time allowed will result in the cancellation of any lease that may have been issued pursuant to the offer. * * *

43 CFR 3102.7.

Furthermore, the drawing entry card, itself, states that "[a]ll interested parties must furnish evidence of their qualifications to hold such lease interest. See 43 CFR 3102.7" (emphasis added). We cannot find any ambiguity in the regulation which would excuse non-compliance therewith.

Finally, appellant adverts to 43 CFR 1821.2-2(g) which permits the authorized officer to accept the late filing of documents with certain exceptions. Unfortunately, one of the exceptions is where rights of a third party or parties have intervened. In the factual construct of the instant case, upon the failure of the appellant to timely file the required information the rights of the person drawn second intervened to prevent subsequent tender of the information on a nunc pro tunc basis. Thus, 43 CFR 1821.2-2(g) is not operative herein.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Joseph W. Goss
Administrative Judge

